

SERVICE DATE – MAY 10, 2002

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 33697

NATIONAL RAILROAD PASSENGER CORPORATION–PETITION FOR  
DECLARATORY ORDER–WEIGHT OF RAIL

Decided: May 9, 2002

In response to a motion for clarification filed on April 12, 2002, by the National Railroad Passenger Corporation (Amtrak), this decision establishes a procedural schedule for the filing of pleadings. The decision also requests the Federal Railroad Administration (FRA) to participate and orders the parties to serve copies of their pleadings on that agency. Finally, this decision grants a petition filed on April 18, 2002, by the Northern New England Passenger Rail Authority (NNEPRA) to intervene in this proceeding.

In National Railroad Passenger Corporation–Petition for Declaratory Order–Weight of Rail, STB Finance Docket No. 33697 (STB served Oct. 22, 1999) (Weight of Rail), the Board found that installation of 115-pound, continuous welded rail on the line between Plaistow, NH, and Portland, ME (Plaistow-Portland Line), owned by the Guilford Rail System (Guilford)<sup>1</sup> will be adequate for safe operation of trains at speeds of up to 79 miles per hour, under the condition that the line is rehabilitated and maintained to a standard that produces track modulus (k) values of not less than 2,750 lb/in<sup>2</sup>, and that otherwise satisfies FRA’s track safety standards for rail passenger train operations up to such speeds.

In a decision served on June 29, 2001, in this proceeding, responding to an Amtrak motion for clarification of the Weight of Rail decision, the Board ordered Guilford to allow Amtrak access to the Plaistow-Portland Line so that it could test whether the k values met the standard established in Weight of Rail. Also, the Board found that testing on the line through use of the Track Loading Vehicle of the Transportation Technology Center, Inc. (TTCI) was a reasonable and practical method of conducting this test.

On April 12, 2002, Amtrak filed another motion for clarification of the Weight of Rail decision. According to Amtrak, the testing conducted by TTCI demonstrates that 99.95% of the Plaistow-

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<sup>1</sup> Springfield Terminal Railway Company, Boston and Maine Corporation, and Portland Terminal Company are referred to collectively as “Guilford.”

Portland Line has a k value greater than the minimum set by the Board in Weight of Rail for operations over the line at 79 miles per hour. However, Amtrak maintains that Guilford refuses to accept the results of this testing and to allow it to operate at 79 miles per hour over its line. Amtrak therefore requests a ruling that, in light of the test results, it is authorized to operate on the Plaistow-Portland Line at speeds of up to 79 miles per hour. In addition, Amtrak proposes a procedural schedule for the Board to adopt to govern this proceeding. By letter filed on April 22, 2002, Guilford concurs with Amtrak's proposed procedural schedule.

Under Amtrak's proposed procedural schedule, Amtrak's pleading would be treated as an opening statement, Guilford's reply would be due 45 days from the date the Board serves its decision establishing a procedural schedule, and Amtrak's rebuttal would be due 15 days after Guilford files its reply. Because Guilford has already had more than 20 days since this motion for clarification was filed to begin formulating its response, slightly shorter time frames would appear to be adequate for the parties to address the issues presented. Consequently, in the interest of moving this already protracted proceeding forward, the Board will adjust the proposed schedule so that Guilford's reply would be due 30 days from the date of service of this decision, and Amtrak's reply would be due 10 days after Guilford files its reply.

FRA, which has jurisdiction over rail safety matters and significant expertise, has participated in this proceeding, and its views contributed substantially to the Board's Weight of Rail decision. Because the instant motion raises additional rail safety issues, the Board requests FRA to participate in this phase of the proceeding, and requests, consistent with Amtrak's suggested procedural schedule, that FRA's analysis and comments be submitted within 10 days after Amtrak files its rebuttal.

Finally, in its petition to intervene, NNEPRA indicates that it coordinated the federal and state funds used to rehabilitate the subject line, and notes that it is a party to various contractual arrangements with Amtrak and Guilford related to the involved passenger service. NNEPRA states that it supports the relief being sought by Amtrak and the proposed procedural schedule. It further states that it joins in the April 12 submission made by Amtrak and proposes that any separate response it may file be due on the same date as Amtrak's rebuttal.

NNEPRA's petition to intervene will be granted. It has demonstrated an interest in the proceeding and its intervention will neither unduly disrupt the procedural schedule nor unduly broaden the issues raised.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Guilford's reply statement is due by June 10, 2002.
2. Amtrak's rebuttal (as well as any rebuttal submitted by NNEPRA) is due 10 days from the date Guilford's reply is filed.
3. The parties must serve copies of their pleadings on FRA.<sup>2</sup>
4. FRA is requested to participate in this proceeding. A copy of this decision will be served on that agency.
5. FRA's analysis and comment is requested within 10 days after Amtrak files its rebuttal.
6. NNEPRA's requested petition to intervene is granted.
7. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams  
Secretary

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<sup>2</sup> Amtrak already has served a copy of its motion on FRA.